



**Registration of a Charge**

Company name: **KEEKLE POWER LIMITED**

Company number: **09393206**



X7CRB460

Received for Electronic Filing: **20/08/2018**

---

**Details of Charge**

Date of creation: **16/08/2018**

Charge code: **0939 3206 0002**

Persons entitled: **FLEXIBLE POWER LIMITED**

Brief description: **THE LAND ADJOINING ROWNHAMS SUBSTATION ON THE NORTH WEST AND SOUTH WEST SIDE OF UPTON LANE, NURSING DEMISED BY A LEASE DATED 26 JANUARY 2018 BETWEEN (1) DAVID HARRIS AND ALAN HARRIS OF GOWERDALE, UPTON LANE, ROWNHAMS SO16 0XZ AND (2) KEEKLE POWER LIMITED AS SHOWN EDGED RED ON THE PLAN ATTACHED TO THE CHARGE INSTRUMENT. PLEASE SEE THE CHARGE INSTRUMENT FOR MORE INFORMATION.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

---

**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

---

**Authentication of Instrument**

Certification statement: **WE CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **OSBORNE CLARKE LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 9393206

Charge code: 0939 3206 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th August 2018 and created by KEEKLE POWER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th August 2018 .

Given at Companies House, Cardiff on 22nd August 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

We certify that, save for material redacted pursuant to s. 859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

EXECUTION VERSION

Dated this 20 August 2018

Signed Osborne Clarke LLP

Osborne Clarke LLP

2 Temple Back East

Temple Quay, Bristol

DATED 16 August 2018

BS1 6EG

- (1) KEEKLE POWER LIMITED
- (2) FLEXIBLE POWER LIMITED

---

DEBENTURE

---

1	DEFINITIONS AND INTERPRETATION .....	4
2	COVENANT TO PAY .....	7
3	GRANT OF SECURITY .....	7
4	LIABILITY OF THE BORROWER.....	9
5	REPRESENTATIONS AND WARRANTIES .....	9
6	GENERAL COVENANTS .....	10
7	INVESTMENTS COVENANTS.....	10
8	POWERS OF THE LENDER.....	11
9	WHEN SECURITY BECOMES ENFORCEABLE.....	12
10	ENFORCEMENT OF SECURITY .....	13
11	RECEIVER.....	15
12	POWERS OF RECEIVER .....	15
13	DELEGATION.....	18
14	APPLICATION OF PROCEEDS .....	19
15	COSTS AND INDEMNITY.....	20
16	FURTHER ASSURANCE.....	20
17	POWER OF ATTORNEY .....	21
18	RELEASE .....	21
19	ASSIGNMENT AND TRANSFER .....	21
20	SET-OFF.....	21
21	AMENDMENTS, WAIVERS AND CONSENTS .....	22
22	SEVERANCE .....	22
23	COUNTERPARTS .....	23
24	THIRD PARTY RIGHTS.....	23
25	FURTHER PROVISIONS .....	23
26	NOTICES .....	24
27	GOVERNING LAW AND JURISDICTION .....	25
	SCHEDULE 1 PROPERTY .....	26



THIS DEED is dated

16<sup>th</sup> August, 2018

## PARTIES

- (1) **KEEKLE POWER LIMITED** incorporated and registered in England and Wales with company number 09393206 whose registered office is at Beeston Lodge, Beeston Lane, Spixworth, Norwich, NR10 3TN (**Borrower**).
- (2) **FLEXIBLE POWER LIMITED** incorporated and registered in England and Wales with company number 11478025 whose registered office is at Beeston Lodge, Beeston Lane, Spixworth, Norwich, NR10 3TN (**Lender**).

## BACKGROUND

- (A) The Lender has agreed, pursuant to the Loan Agreement, to make available to the Borrower a loan facility.
- (B) Under this deed, the Borrower provides security to the Lender for the loan facility made available to it under the Loan Agreement.

## AGREED TERMS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

Terms defined in the Loan Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed:

<b>Administrator</b>	an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 8.7.
<b>Book Debts</b>	all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them.
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
<b>Delegate</b>	any person appointed by the Lender or any Receiver pursuant to clause 13 and any person appointed as attorney of the Lender, Receiver or Delegate.
<b>Enforceability Event</b>	has meaning given to it in clause 9.1.
<b>Environment</b>	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
<b>Environmental Law</b>	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and

other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes, in each case binding on the Borrower, in so far as they relate to or apply to the Environment.

<b>Equipment</b>	all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions.
<b>Event of Default</b>	has the meaning given to that expression in the Senior Facility.
<b>Loan Agreement</b>	the loan agreement dated on or around the date of this deed between the Borrower and the Lender for the provision of the loan facilities secured by this deed.
<b>Financial Collateral</b>	shall have the meaning given to that expression in the Financial Collateral Regulations.
<b>Financial Collateral Regulations</b>	the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).
<b>Insurance Policy</b>	each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment but excluding third party liability insurance, employer's liability insurance, delay in start-up and business interruption insurances (unless the Borrower receives the benefit of any indemnification under such policies).
<b>Intellectual Property</b>	the Borrower's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights.
<b>Investments</b>	<p>all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any:</p> <ul style="list-style-type: none"><li>a) dividend, interest or other distribution paid or payable to the Borrower in relation to any of the Investments; and</li><li>b) right, money, shares or property accruing, offered or issued to the Borrower at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or</li></ul>



otherwise.

<b>LPA 1925</b>	Law of Property Act 1925.
<b>Properties</b>	all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest (including, but not limited to, the properties specified in Schedule 1), and <b>Property</b> means any of them.
<b>Receiver</b>	a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 11.
<b>Secured Assets</b>	all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed.
<b>Secured Liabilities</b>	all present and future monies, obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Loan Agreement, or this deed, together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.
<b>Security Financial Collateral Arrangement</b>	shall have the meaning given to that expression in the Financial Collateral Regulations.
<b>Security</b>	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.
<b>Security Period</b>	the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.
<b>Senior Lender</b>	Bridging Trading LLP.
<b>Senior Facility Agreement</b>	credit facility agreement dated 12 July 2018 between the Senior Lender and Keekle Power Limited as borrower.
<b>Senior Security</b>	Security created by Keekle Power Limited pursuant to the debenture dated 12 July 2018 in favour of Downing LLP as security trustee.

## 1.2 Interpretation

The provisions of clause 1.2 of the Loan Agreement apply to this deed as if they were set out in full in this deed, except that each reference in that clause to the Loan Agreement shall be read as a reference to this deed.

## 1.3 Clawback

If an amount paid by the Borrower in respect of the Secured Liabilities is avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

#### **1.4 Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Property includes:

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time;
- 1.4.2 the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants; and
- 1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Property.

#### **1.5 Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Loan Agreement and of any side letters between any parties in relation to the Loan Agreement are incorporated into this deed.

#### **1.6 Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

#### **1.7 Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

### **2 COVENANT TO PAY**

The Borrower shall pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.

### **3 PRANT OF SECURITY**

#### **3.1 Legal mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of second ranking legal mortgage, each Property specified in Schedule 1.

### **3.2 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of second ranking fixed charge:

- 3.2.1 all Properties acquired by the Borrower in the future;
- 3.2.2 all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;
- 3.2.3 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;
- 3.2.4 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them;
- 3.2.5 all its present and future goodwill;
- 3.2.6 all its uncalled capital;
- 3.2.7 all the Equipment;
- 3.2.8 all the Intellectual Property;
- 3.2.9 all the Book Debts;
- 3.2.10 all the Investments;
- 3.2.11 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person, together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.12 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy; and
- 3.2.13 all its rights in respect of all agreements, instruments and rights relating to the Secured Assets.

### **3.3 Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of second ranking floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.2 inclusive.

### **3.4 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3.

### **3.5 Crystallisation of floating charge**

The floating charge created by clause 3.3 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- 3.5.1 the Security Trustee (as defined in the Senior Facility Agreement) or any other person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or
- 3.5.2 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower.

### **3.6 Crystallisation of floating charge by notice**

The Lender may, in its sole discretion, at any time after the occurrence of the Enforceability Event, by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice.

### **3.7 Assets acquired after any floating charge has crystallised**

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge.

## **4 LIABILITY OF THE BORROWER**

### **4.1 Liability not discharged**

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

### **4.2 Immediate recourse**

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

## **5 REPRESENTATIONS AND WARRANTIES**

### **5.1 Representations and warranties**

The Borrower makes the representations and warranties set out in this clause 5 to the Lender on the date of this deed.

## **5.2 Ownership of Secured Assets**

The Borrower is the sole legal and beneficial owner of, or in relation to the Properties has valid leases in respect of, the Secured Assets.

## **5.3 No breach of laws**

The Borrower has not breached any law or regulation that materially and adversely affects the Secured Assets. So far as the Borrower is aware, there is no other breach of any law or regulation that materially and adversely affects the Secured Assets.

# **6 GENERAL COVENANTS**

## **6.1 Preservation of Secured Assets**

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

## **6.2 Compliance with laws and regulations**

6.2.1 The Borrower shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.2.2 The Borrower shall:

6.2.2.1 comply in all material respects with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them;

6.2.2.2 obtain, and promptly renew from time to time, and comply with the terms of all material authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and

6.2.2.3 promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

# **7 INVESTMENTS COVENANTS**

## **7.1 Dividends and voting rights before enforcement**

7.1.1 Before the security constituted by this deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request.

7.1.2 Before the security constituted by this deed becomes enforceable, the

Borrower may exercise all voting and other rights and powers in respect of the Investments.

## **8 POWERS OF THE LENDER**

### **8.1 Power to remedy**

8.1.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.

8.1.2 The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.

8.1.3 Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 15.1.

### **8.2 Exercise of rights**

8.2.1 The rights of the Lender under clause 8.1 are without prejudice to any other rights of the Lender under this deed.

8.2.2 The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

### **8.3 Power to dispose of chattels**

8.3.1 At any time after the security constituted by this deed has become enforceable, the Lender or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Property.

8.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 8.3.1, the Borrower shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 8.3.1.

### **8.4 Lender has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

### **8.5 New accounts**

8.5.1 If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Borrower in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

- 8.5.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 8.5.1, then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender.

## 8.6 Indulgence

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

## 8.7 Appointment of an Administrator

- 8.7.1 The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.
- 8.7.2 Any appointment under this clause 8.7 shall:
- 8.7.2.1 be in writing signed by a duly authorised signatory of the Lender; and
  - 8.7.2.2 take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- 8.7.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 8.7 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

## 8.8 Further advances

The Lender (as agent for the Lender under the Loan Agreement) covenants with the Borrower that it shall perform its obligations to make advances under the Loan Agreement (including any obligation to make available further advances).

# 9 WHEN SECURITY BECOMES ENFORCEABLE

## 9.1 Enforceability event

The security constituted by this deed shall become immediately enforceable if an Event of Default has occurred under the Senior Facility Agreement and not been waived or remedied to the satisfaction of the Senior Lender, and the Senior Lender has enforced its rights in respect of the Senior Security (the **Enforceability Event**).

## 9.2 Discretion

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the

manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

## **10 ENFORCEMENT OF SECURITY**

### **10.1 Enforcement powers**

10.1.1 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 9.1.

10.1.2 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

### **10.2 Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Lender and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to:

10.2.1 grant a lease or agreement to lease;

10.2.2 accept surrenders of leases; or

10.2.3 grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lender or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

### **10.3 Access on enforcement**

10.3.1 At any time after the occurrence of an Enforceability Event, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.

10.3.2 At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 10.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

### **10.4 Protection of third parties**



No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:

- 10.4.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 10.4.2 whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- 10.4.3 how any money paid to the Lender, any Receiver or any Delegate is to be applied.

## **10.5 Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

## **10.6 No liability as mortgagee in possession**

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

## **10.7 Conclusive discharge to purchasers**

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

## **10.8 Right of appropriation**

10.8.1 To the extent that:

10.8.1.1 the Secured Assets constitute Financial Collateral; and

10.8.1.2 this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine.

10.8.2 The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Lender may select (including independent valuation).

10.8.3 The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial

## Collateral Regulations.

### 11 RECEIVER

#### 11.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

#### 11.2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

#### 11.3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

#### 11.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

#### 11.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

#### 11.6 Agent of the Borrower

Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

### 12 POWERS OF RECEIVER

#### 12.1 General

- 12.1.1 Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 12.2 to clause 12.23.

12.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.

12.1.3 Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 12.16) or himself.

## **12.2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

## **12.3 Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit.

## **12.4 Employ personnel and advisors**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.

## **12.5 Make VAT elections**

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit.

## **12.6 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Lender may prescribe or agree with him.

## **12.7 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

#### **12.8 Manage or reconstruct the Borrower's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.

#### **12.9 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

#### **12.10 Sever fixtures and fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower.

#### **12.11 Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit.

#### **12.12 Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

#### **12.13 Make settlements**

A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient.

#### **12.14 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit.

#### **12.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

#### **12.16 Make calls on Borrower members**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

#### **12.17 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 15, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

#### **12.18 Powers under the LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

#### **12.19 Borrow**

A Receiver may, for any of the purposes authorised by this clause 12, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

#### **12.20 Redeem prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

#### **12.21 Delegation**

A Receiver may delegate his powers in accordance with this deed.

#### **12.22 Absolute beneficial owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

#### **12.23 Incidental powers**

A Receiver may do any other acts and things:

12.23.1 that he may consider desirable or necessary for realising any of the Secured Assets;

12.23.2 that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

12.23.3 that he lawfully may or can do as agent for the Borrower.

### **13 DELEGATION**

#### **13.1 Delegation**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or

discretion conferred on it by this deed (including the power of attorney granted under clause 17.1).

### **13.2 Terms**

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

### **13.3 Liability**

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **14 APPLICATION OF PROCEEDS**

### **14.1 Order of application of proceeds**

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

- 14.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- 14.1.2 in or towards payment of or provision for all sums owed by the Borrower to Bridging Trading LLP;
- 14.1.3 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and
- 14.1.4 in payment of the surplus (if any) to the Borrower or other person entitled to it.

### **14.2 Appropriation**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

### **14.3 Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this deed:

- 14.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
- 14.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- 14.3.3 may be held in that account for so long as the Lender, Receiver or

Delegate thinks fit.

## **15 COSTS AND INDEMNITY**

### **15.1 Costs**

The Borrower shall on demand, pay to, or reimburse, the Lender and any Receiver the amount of all costs and expenses (including legal, printing and out-of-pocket expenses), subject to any pre-agreed caps, reasonably incurred by the Lender, any Receiver or any Delegate in connection with:

- 15.1.1 the negotiation, preparation, execution and perfection of this deed and the other documents referred to in it, or the Secured Assets;
- 15.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed;
- 15.1.3 taking proceedings for, or recovering, any of the Secured Liabilities; or
- 15.1.4 any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) relating to this deed and the other documents referred to in it.

### **15.2 Indemnity**

The Borrower shall indemnify the Lender, Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- 15.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- 15.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- 15.2.3 any default or delay by the Borrower in performing any of its obligations under this deed.

Any employee or agent may enforce the terms of this clause 15.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **16 FURTHER ASSURANCE**

### **16.1 Further assurance**

The Borrower shall, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

- 16.1.1 creating, perfecting or protecting the security intended to be created by this deed;
- 16.1.2 facilitating the realisation of any Secured Asset; or

- 16.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lender or Receiver thinks it expedient) the execution after the occurrence of an Enforceability Event of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **17 POWER OF ATTORNEY**

### **17.1 Appointment of attorneys**

By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- 17.1.1 the Borrower is required to execute and do under this deed; or

- 17.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

### **17.2 Ratification of acts of attorneys**

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 17.1.

## **18 RELEASE**

- 18.1 Subject to clause 25.3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

- 18.1.1 release the Secured Assets from the security constituted by this deed; and

- 18.1.2 reassign the Secured Assets to the Borrower.

## **19 ASSIGNMENT AND TRANSFER**

### **19.1 Assignments**

Neither the Borrower nor the Lender may assign any of its rights, or transfer any of its rights or obligations, under this deed.

## **20 SET-OFF**

### **20.1 Lender's right of set-off**

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future,



liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 20 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

#### **20.2 No obligation to set off**

The Lender is not obliged to exercise its rights under clause 20.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

#### **20.3 Exclusion of Borrower's right of set-off**

All payments made by the Borrower to the Lender under this deed shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

### **21 AMENDMENTS, WAIVERS AND CONSENTS**

#### **21.1 Amendments**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

#### **21.2 Waivers and consents**

21.2.1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

21.2.2 A failure to exercise, or a delay in exercising, any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

#### **21.3 Rights and remedies**

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

### **22 SEVERANCE**

#### **22.1 Severance**

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant

provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

## **23 COUNTERPARTS**

### **23.1 Counterparts**

23.1.1 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

23.1.2 Transmission of an executed counterpart of this deed (but for the avoidance of doubt not just a signature page) by fax or e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

23.1.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

## **24 THIRD PARTY RIGHTS**

### **24.1 Third party rights**

24.1.1 Except as expressly provided in clause 15.2, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

24.1.2 The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

## **25 FURTHER PROVISIONS**

### **25.1 Independent security**

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed.

### **25.2 Continuing security**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

### **25.3 Discharge conditional**

Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender or the Lender

in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement the Lender or the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

#### **25.4 Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed, and the Loan Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

#### **25.5 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

### **26 NOTICES**

#### **26.1 Delivery**

Any notice or other communication required to be given to a party under or in connection with this deed shall be:

- 26.1.1 in writing;
- 26.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or email; and
- 26.1.3 sent to the registered address of the party from time to time for the attention of the managing director or to an email address certified by one party to another or to any other address or email address as is notified in writing by one party to the other from time to time.

#### **26.2 Receipt by Borrower**

Any notice or other communication that the Lender gives to the Borrower shall be deemed to have been received:

- 26.2.1 if delivered by hand, at the time it is left at the relevant address;
- 26.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- 26.2.3 if sent by email, when received in legible form.

A notice or other communication given as described in clause 26.2.1 or clause 26.2.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

#### **26.3 Receipt by Lender**

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

#### **26.4 Service of proceedings**

This clause 26 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

### **27 GOVERNING LAW AND JURISDICTION**

#### **27.1 Governing law**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

#### **27.2 Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

#### **27.3 Other service**

The Borrower irrevocably consents to any process in any legal action or proceedings under clause 27.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

**In witness whereof** this document has been executed and delivered as a deed on the date first stated above.

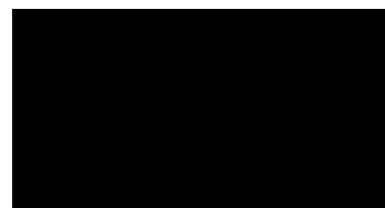
## **SCHEDULE 1**

### **PROPERTY**

Land adjoining Rownhams Substation on the north west and south west sides of Upton Lane, Nursling demised by a lease dated 26 January 2018 between (1) David Harris and Alan Harris of Gowerdale, Upton Lane, Rownhams SO16 0XZ and (2) Keekle Power Limited, as shown edged in red on the plan attached to this deed.

EXECUTED as a Deed  
by KEEKLE POWER LIMITED  
acting by a director  
in the presence of:

)  
)  
)  
)



Signature of witness: ..



Director

Name: ..

JAMES FLINT

Address: ..



Occupation: .. INVESTMENT ANALYST ..

EXECUTED as a Deed  
by FLEXIBLE POWER LIMITED  
acting by a ~~member~~ director  
in the presence of:

)  
)  
)  
)



Signature of witness: ..



~~Member~~  
Director

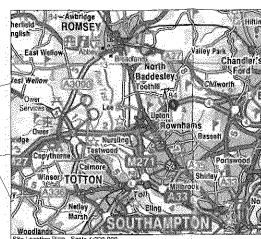
Name: ..

JAMES FLINT

Address: ..



Occupation: .. INVESTMENT ANALYST ..



- Legend
- Boundary of land subject to Option Agreements (1.00 acres)
  - Gradients adjoining land under Site HP602765
  - Electrical Easement Area
  - Access Easement Area (to contain Access Road up to 6 m wide)
  - Site Location



Proposed Area Contained Survey 437000, 437250, 116750, 437000

Notes:  
OS (GB) National Grid: SU 711541 168137  
Coordinates: 437113.03m, 116822.78m  
Procode: SO16 0XZ

Created by:  
TerraQuest Solutions Limited  
Quintus Tower  
252-254 Bristol Street  
Birmingham  
B1 2PH  
www.terraquest.co.uk  
info@terraquest.co.uk



Created for:  
Prime Energy Limited  
23 Cowditch House  
London  
W16 6PW

Title:  
Rowthams Option Plan

Scale:  
1:1250 @ A3

Date:  
June 2015

Drawing No:  
Rowthams Option Plan

Revision:  
v2.3

Approved By:	Checked By:	Drawn By:
MD	DC	PK